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APR 10 2003

In re Application of :
In Sool Chung et al :
Application No. 09/691,784 :
Filed: October 18, 2000 :
Attorney Docket No. 0939H-071110US :

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 31, 2003, to revive the above-identified application. In view of the allegation in the petition of the timely filing of a reply and the evidence submitted in support thereof, the petition is more properly a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **Granted**.

The above-identified application was held abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed December 6, 2000, which set a period for reply of two (2) months. Therefore, a reply was due on or before February 6, 2001.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on February 12, 2001 of a "Response to Notice of Missing Parts." Additionally, petitioner has supplied a copy of the previously mailed correspondence which bears a certificate of mailing date of February 9, 2001.

The reply acknowledged as having been received in the USPTO on February 12, 2001 (certificate of mailing date February 9, 2001) is not of record in the application file and cannot be located. However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but was apparently lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. Therefore, the \$1300.00 fee assessed to the instant petition is unnecessary and will be credited to the above-noted deposit account.

Pursuant to petitioner's authorization, Deposit Account No. 20-1430 was charged a total of \$1,030.00 --\$710 for the basic filing fee, \$80.00 for extra claim, \$130.00 surcharge fee and \$110.00 for one month extension of time.

The Office sincerely apologizes for the inconvenience caused petitioner in this matter.

This application is being returned to the Office of Initial Patent Examination for preexamination processing.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.



Frances Hicks
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Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy